

DIÁRIO DA REPÚBLICA – Series 1 of November 12, 2004

LAW N° 11/04

On Customs Regulations Applicable to the Oil-Industry Sector

Repeals, in that part regarding norms related to this customs regime, all subject matter contained in decree-laws and concession decrees currently in force.

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OF NOVEMBER 12, 2004

Oil operations, because of the high risk they involve and the large volume of investments they require, justify their having a customs regime different from that in place for other economic activities.

The standardization of customs regulations applicable to the different oil concessions and contained in the respective concession decrees, is needed not only to establish a system of equity for the treatment of those entities investing in the oil sector, but also to facilitate state authorities in applying the said regulations.

Under these terms, within the framework of that stipulated in paragraph f) of article 90 of the Constitutional Law, the National Assembly approves the following:

ARTICLE 1

(Object)

This law establishes the customs regulations governing oil operations in areas coming under the jurisdiction of the Republic of Angola.

ARTICLE 2

(Scope of application)

The National Concessionaire, its partners and those entities engaged, on their own account, in oil operations are subject to the regulations stipulated in this law.

ARTICLE 3

(Definitions)

For the purposes of this law, and excepting if some other form has been expressly indicated in the text itself, the words and expressions herein employed have the following meanings, with definitions in the singular equally applicable to the plural and vice-versa:

- a) *National Concessionaire*, the entity that is the holder of mineral rights in accordance with the terms of the Oil & Gas Industry Activities Law;
- b) *National Concessionaire Partners*, those entities which in accordance with the terms of the Oil & Gas Industry Activities Law enter into partnership with the National Concessionaire;
- c) *Mineral Rights*, the series of powers attributed to the National Concessionaire with a view to engaging in oil operations in any oil concession;
- d) *Natural Gas or Gas*, a mixture essentially composed of methane and other hydrocarbons found in an oil deposit in a gaseous state or that turns to that state when produced under normal conditions of pressure and temperature;
- e) *Oil Operations*, the activities of prospection, exploration, appraisal, development and production of oil, as well as the processing,

- transportation and storage of various kinds of gas, performed within the framework the Oil & Gas Industry Activities Law;
- f) *Operator*, the entity that carries out oil operations within a determined oil concession;
 - g) *Petroleum*, crude oil, natural gas and all other hydrocarbonated substances that may be found and extracted, or obtained and collected by any other method, from an oil concession area;
 - h) *Crude Oil*, a mixture of hydrocarbon liquids coming from any oil concession in a liquid state to the wellhead or in the separator under normal conditions of pressure and temperature, including distillates and condensates, as well as liquids extracted from natural gas;
 - i) *Goods*, the generic term utilized for the purposes of the designation and coding of goods tariffs under any customs regulations; that is to say, equipment, machinery, apparatus, instruments, utensils, other artifacts, raw materials and products utilized in oil operations, classified in the list appended to this law.

ARTICLE 4

(Import exemptions)

1. Exempt from customs duties and the service tariff for general customs charges, with the exception of stamp duty, the 1/1000 statistical and «ad valorem» tariff, and of other tariffs for services, in connection with imported and exported goods, are those earmarked exclusively and directly for the execution of oil operations and which figure in the list appended to this law.
2. Dependent on a proposal from the Ministry of Petroleum and subsequent to an opinion issued by the Ministry of Finance, other goods earmarked exclusively and directly for the execution of oil operations may be added to the appended list referred to in the previous number, by means of a Government decree.

ARTICLE 5

(Exclusivity)

1. At the time of importing the goods referred to in article 4 of this law, a declaration of undertaking as to the exclusivity of their utilization for oil operations, officially stamped by the Ministry of Petroleum, must be presented to the customs authority.
2. The official stamp referred to in the previous number may only be affixed by a Ministry of Petroleum body whose signature is recognized by the National Directorate of Customs, with the latter also having to verify the undertaking.
3. Without prejudice to that stipulated in the following number, the utilization of those goods, for purposes other than those provided for and declared, constitutes embezzlement of customs duties, as provided for and punishable by Customs Regulations in force and other applicable legislation.
4. Any deviation from the exclusive-utilization in oil operations rule of imported goods exempt from customs charges, as well as their disposal, must be requested from the Minister of Finance in advance, with such goods, in the case of the application being granted, subject to the payment of all the charges payable, in accordance with the terms of legislation on general regulations in force.

ARTICLE 6

(Protection of national market)

The exemption contained in article 4 of this law is not applicable in the case of the existence in Angola of the goods referred to in this law, of the same or similar capacity, and which are available for sale and with timely delivery, at a price no higher than 10% of the cost of an imported article before the application of customs charges, but after inclusion of transportation and insurance costs, in accordance with the GATT/WTO method for assessing the customs value.

ARTICLE 7

(Importation for sale, use or consumption by workers)

The exemption referred to in article 4 of this law does not apply to goods imported by the National Concessionaire, its partners and entities that, on their own account, engage in the execution of oil operations, when such is destined for sale to their workers, or individual and/or collective use or consumption by them.

ARTICLE 8

(Exportation of oil)

The exportation of oil produced from each oil concession, either in its natural state or after having been processed, whenever such exportation is effected in accordance with the terms of a purchase and sales agreement, and provided that this is duly registered in accordance with the terms of legislation in force, is exempt from customs duties and the service tariff with regard to general customs charges, with the exception of the stamp duty on customs-clearance documents, the statistical 1/1000 «ad valorem» tariff and of other tariffs for services provided in connection with the import and export of goods.

ARTICLE 9

(Customs inspections)

Oil concession areas are considered as being under permanent scrutiny by the Customs, so that customs inspection officers must be permitted free access to all places of same, without any type of restrictions, so as to enable them to comply fully with their duties, namely, to seal and unseal storage tanks, and to determine the quantities of oil stored and exported, calculated at the point of examination established by a method approved by the authorities concerned, as well as the reading of temperatures, densities and automatic measuring instruments.

ARTICLE 10

(Customs verifications)

The goods contained in the appended list, when imported by the National Concessionaire, its partners and entities that, on their own account, engage in the execution of oil operations, must be submitted to verification of the quantity, capacity, price, the respective article's tariff and the calculation of the customs duties to which they would be subject under general regulations, by means to be defined by an executive decree issued by the Minister of Finance, having duly heard the Ministry of Petroleum.

ARTICLE 11

(Temporary importation)

Temporary importation is permitted, with dispensation of a bond, for those goods featured on the appended list, with this temporary importation and consequent re-exportation being free of customs charges, including the service tariff with regard to general customs charges, with the exception of the stamp duty on customs-clearance documents and other tariffs due for services provided in connection with the import and export of goods.

ARTICLE 12

(Temporary exportation)

Temporary exportation is permitted, with dispensation of a bond for the goods contained on the appended list, which are going abroad for repair, retrofit or refurbishment, with this temporary exportation and consequent re-importation being free of customs charges including the services tariff with regard to general customs charges, with the exception of the stamp duty on customs-clearance documents and other tariffs for the provision of services.

ARTICLE 13

(Deadlines for temporary importation and re-importation of goods)

1. Any goods imported temporarily must be re-exported within a maximum of two years, counting from the date of presentation of a request to the Ministry of Petroleum, with the possibility of this deadline, in exceptional and duly proven cases, being extended by executive order of the Minister of Finance.
2. The re-importation of goods exported temporarily must take place within one year, with this deadline being extended in accordance with the terms of the previous number.

ARTICLE 14

(Urgent customs clearance)

1. In the case of goods that, by their very nature, demand urgent customs clearance, the Angolan customs authorities must authorize their immediate release, while taking adequate and prudent measures, with the importer having to finalize the respective clearance bill within a deadline of 90 business days.
2. In order to be able to benefit from the urgent customs clearance system referred to in the previous number, the National Concessionaire, its partners and entities that, on their own account, engage in the execution of oil operations, may put up a bond should the National Directorate of Customs so decide, which covers other customs demands liable to involve payment, within the scope of this special customs regime, as well as eventual fines and cost of legal proceedings arising out of non-compliance with the deadline referred to in the previous number and other customs procedures.

ARTICLE 15

(Repeal)

1. In that part in respect of precepts relating to these customs regulations, all subject matter contained in decree-laws and concession decrees currently in force is hereby repealed.
2. Excluded from the revocation referred to in the previous number are those rights acquired by the concessionaire and its partners arising out of the application of contracts signed between the

concessionaire and its partners, still in force, excepting the exemptions related to the goods mentioned in article 7 of this law.

ARTICLE 16

(Interpretation)

Any doubts and omissions raised in the interpretation and application of this law are resolved by the National Assembly.

Let it be published.

Seen and approved by the National Assembly, in Luanda, on August 10, 2004.

The Speaker of the National Assembly, *Roberto António Vítor Francisco de Almeida*.

Promulgated on October 4, 2004.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS.

APPENDED LIST REFERRED TO IN ARTICLE 4

(Import Exemptions)

List of the equipment, machinery, apparatus, instruments, utensils, other artifacts, raw materials and products utilized in oil operations that enjoy exemption from customs duties on importation to the Republic of Angola, in accordance with the terms of this law:

1. Probes and other complete drilling apparatus and all related equipment, spare parts essential to making the drilling equipment operational and which enables it to perform drilling and similar operations, survey materials, equipment for exploration, drilling, removal and retrieval, separators, processing facilities, sets of valves, pipelines for lining, production pipelines, distribution pipelines, fixed and portable tanks, chemical products, special cements, mud products, infusorial earths, refined oil products, refining equipment, flaring equipment, chokes, blowout preventers, wireline equipment, mud-log equipment, equipment for well tests, wellhead equipment, radioactive materials and related equipment.
2. Machines, specific vehicles, equipment and apparatus of all kinds exclusively required for oil operations, processing of crude oil, gas, water and other fluids, as well as their transportation, storage and loading, including reserve parts and spares.
3. Heavy-duty handling machines and equipment, such as derricks, cranes, hoists, cargo elevators, conveyor belts, roller conveyors, cables, bridges, including reserve parts and spares.
4. Instruments, materials and other articles required for laboratory analysis, reserve parts and spares, and mineral, soil and rock collections for identification.
5. Instruments, materials and other articles required for the protection and safety of workers, such as alarm apparatus, safety clothing, helmets and boots.
6. Material for washing and drying equipment, disinfectants, insecticides, fungicides, pesticides, parasiticides, rat-killer and similar products.
7. Explosives, detonators, fuses and similar material, as well as machinery and apparatus for setting off explosives.
8. Instruments and apparatus for analysis, measurement, verification, regulation of fluids, reserve parts and spares.
9. Electrical-power generators, separators, turbines, engines, transformers and other material required for the production, transportation and utilization of electrical or other power, reserve parts and spares.
10. Heavy-duty trucks, goods vans, SUVs, excavators, loaders, stone crushers for road construction, tractors including respective trailers and similar equipment, reserve parts and spares.
11. Workshop facilities, machines and tools required for servicing and maintenance of equipment, machines tools and utensils utilized in oil operations, their reserve parts and spares.
12. Equipment and apparatus for reconnaissance and topographic, geodesic and geological onshore and offshore surveys, reserve parts and spares.
13. Equipment and instruments for technical drawings and photographic, heliographic or other reproduction, reserve parts and spares.
14. Equipment and educational material required for technical/professional training.
15. Telecommunications apparatus and systems, equipment and spares, cables and reserve parts, equipment utilized for their installation, servicing and maintenance.
16. Products, instruments, equipment and other material required for fire-fighting, prevention and

control of pollution and safety in operations.

17. Pumps, motor-pumps and turbo-pumps, for liquids and gases, pipelines and respective connection accessories, spigots, valves and material for their installation and maintenance.
18. Aircraft and seagoing vessels exclusively utilized in oil operations, and safety, illumination and signaling material for air and maritime navigation, reserve parts and spares.
19. Equipment and diverse material for operation of warehouses, power-driven cars for handling goods, pallets, shelving and cargo elevators.
20. Camping gear, such as caravans, tents, tables, folding chairs, exclusively adaptable and utilized for onshore oil operations.

The Speaker of the National Assembly, *Roberto António Víctor Francisco de Almeida*.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS.